

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MISSOURI  
SOUTHERN DIVISION

PETER NYACHIRA, on behalf of himself and  
all other similarly situated persons,

Plaintiffs,

vs.

NEW PRIME, INC.,

Defendant.

Case No. 6:21-cv-03211-BP

**STIPULATION OF UNCONTROVERTED FACTS**

Plaintiff Peter Nyachira (“Plaintiff”) together with Defendant New Prime, Inc. (“Prime”) (collectively, the “Parties”), stipulate to the following uncontroverted facts in advance of the November 12, 2024 trial:

1. Defendant New Prime, Inc. is a nationwide interstate trucking company with headquarters in Springfield, Missouri.
2. The Federal Motor Carrier Safety Administration (“FMCSA”) is a federal agency that works to ensure safety in motor carrier operations, including issuing regulations that impact commercial motor vehicle drivers and by determining the requirements for obtaining a commercial driver’s license (or “CDL”).
3. Currently, the FMCSA provides Entry Level Driver Training (“ELDT”) curriculum requirements, which set forth a prescribed curriculum that all entry-level driver training schools must implement, and also mandates anyone wishing to receive a CDL to receive training from a registered training provider.
4. The CDL exam focuses on three main elements of required skills: the pre-trip vehicle inspection, basic vehicle control skills (or “backing”), and safe on-road driving skills.
5. Individuals coming to Prime without a Commercial Driver’s License (“CDL”) first go through what Prime calls its “PSD” program.
6. Individuals in the PSD program may be referred to as “D Seat” drivers or as “PSDs.”
7. Prime has three training facilities where individuals would be onboarded into the PSD program, located at Springfield, Missouri, Salt Lake City, Utah, and Pittston, Pennsylvania.
8. Prior to their arrival at Prime for orientation, incoming PSDs are required to first obtain a Commercial Learner’s Permit.

9. Upon entering Prime's PSD program, PSDs sign a Training Program Contract, which provides that the "Total Program Value" for Prime's PSD program is \$4,375.
10. The Training Program Contract explains that the Training Program Fees will not be incurred if the PSD ultimately joins Prime as an employee and stays for at least a year. It states that the PSD does not need to pay for the program if he or she completes the program "in its entirety" and "remain[s] under actively available dispatch for twelve continuous months after completing the Training Program."
11. PSDs are not paid for any portion of the PSD program.
12. During Prime's orientation, PSDs fill out paperwork, attend classroom training and computer-based training, watch videos, and practice on simulators.
13. After PSDs complete the required classroom and computer lab-based training portion of orientation, PSDs have a structured meeting during which they learn about tire safety and the hours of service, among other things, and are introduced to trucks.
14. After completion of orientation and classroom training, D Seat drivers or PSDs are generally paired with an A Seat instructor.
15. PSD instructors, who are A seat drivers, do not generate revenue for Prime when they are training PSDs unless they are hauling freight for customers.
16. Plaintiff Peter Nyachira arrived at Prime without a CDL and had no prior experience driving a commercial motor vehicle.
17. Plaintiff entered Prime's PSD program on or about October 5, 2020.
18. Plaintiff took his CDL exam and obtained his CDL on October 30, 2020.
19. Nyachira was a B-2 seat driver until January 16, 2021.

20. After Nyachira resigned, he subsequently received two emails from Prime asking him to pay \$4,375.
21. Nyachira has not made any payments toward the \$4,375, and Prime has not made any further efforts to collect repayment from Nyachira.

Dated: October 23, 2024

Stipulated, Agreed, and Respectfully Submitted,

/s/ Matthew R. Crimmins

Virginia Stevens Crimmins, MO #53139

Matthew R. Crimmins, MO #53138

CRIMMINS LAW FIRM LLC

214 S. Spring Street

Independence, Missouri 64050

Telephone: 816-974-7220

Facsimile: 855-974-7020

m.crimmins@crimminslawfirm.com

v.crimmins@crimminslawfirm.com

Hillary Schwab (*pro hac vice*)

Osvaldo Vazquez (*pro hac vice*)

FAIR WORK, P.C.

192 South Street, Suite 450

Boston, MA 02111

Telephone: 617-607-3261

Facsimile: 617-488-2261

hillary@fairworklaw.com

oz@fairworklaw.com

Garrett M. Hodes, MO#50221

HODES LAW FIRM, LLC

6 Victory Lane, Suite 6

Liberty, Missouri 64068

Telephone: 816-222-4338

Facsimile: 816-931-1718

garrett@hodeslawfirm.com

*Attorneys for Plaintiffs, the collective, and the class*

MICHELE L. MARYOTT (*pro hac vice*)  
JESSICA M. PEARIGEN (*pro hac vice*)  
JORDAN JOHNSON (*pro hac vice*)  
GIBSON, DUNN & CRUTCHER LLP  
3161 Michelson Drive, Suite 1200  
Irvine, CA 92612  
Telephone: 949-451-3945  
Facsimile: 949-475-4668  
mmaryott@gibsondunn.com  
jpearigen@gibsondunn.com  
jjohnson@gibsondunn.com

/s/ Amanda C. Machin  
AMANDA C. MACHIN (*pro hac vice*)  
THOMAS J. MCCORMAC IV (*pro hac vice*)  
GIBSON, DUNN & CRUTCHER LLP  
1050 Connecticut Avenue, NW, Suite 300  
Washington, D.C. 20036  
Telephone: 202-887-3705  
Facsimile: 202-530-4244  
amachin@gibsondunn.com  
tmccormac@gibsondunn.com

KATHLEEN M. NEMECHEK  
JOCELYN A. VILLANUEVA  
STEPHEN M. BLEDSOE  
TIMOTHY S. MILLMAN  
BERKOWITZ OLIVER, LLP  
2600 Grant Boulevard, Suite 1200  
Kansas City, MO 64108  
Telephone: 816-561-7007  
Facsimile: 816-561-1888  
knemechek@berkowitzoliver.com  
jvillanueva@berkowitzoliver.com  
sbledsoe@berkowitzoliver.com  
tmillman@berkowitzoliver.com

*Attorneys for Defendant New Prime, Inc.*

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on this the 23rd day of October, 2024, I electronically filed the above and foregoing document via the Court's CM/ECF system, which will send notification of said filing to all counsel of record.

/s/ Matthew R. Crimmins